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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JONATHAN CROWELL, on plaintiff's own behalf
and on behalf of all others similarly situated,

Plaintiff,

v.

DAVID H. MCCORMICK, ROBERT M.
CALDERONI and ARIBA, INC.,

Defendants.

Case No.: 3:06-CV-05575-MHP

Assigned to Hon. Marilyn Hall Patel

JOINT STIPULATION AND ~~[PROPOSED]~~
ORDER ALLOWING PLAINTIFFS TO FILE
A SECOND AMENDED CLASS ACTION
COMPLAINT

1 IT IS HEREBY STIPULATED AND AGREED by and among the parties, subject
2 to the Order of the Court, the following:

3 (1) Plaintiff Jonathan Crowell ("Plaintiff") shall file a Second Amended Class
4 Action Complaint ("Second Amended Complaint") and serve it on or before May 18, 2007;

5 (2) Defendants shall answer or otherwise respond to the Second Amended
6 Complaint on or before July 13, 2007;

7 (3) If Defendants file motion(s) to dismiss, Plaintiff shall file and serve his
8 opposition memorandum on or before August 10, 2007;

9 (4) Defendants shall file and serve their reply memoranda on or before
10 September 7, 2007;

11 (5) The parties shall confer among themselves and with the Court's clerk to set
12 a hearing date for any such motion to dismiss;

13 (6) Plaintiff agrees to rest on the merits of the Second Amended Complaint,
14 such that he will not seek leave of Court to amend if a motion to dismiss the Second Amended
15 Complaint is granted, and will accept such a dismissal as a dismissal with prejudice; provided,
16 however that Plaintiff may seek leave to amend his Second Amended Complaint if, and only if,
17 entirely new facts relating specifically to plaintiff's claims concerning the patents at issue in the
18 case entitled ePlus, Inc. v. Ariba, Inc., U.S. Dist. Ct. Case No. 1:04cv612 (E.D. Va.) are
19 disseminated to the public by Ariba after the date of this stipulation and [proposed] order.
20 Defendants reserve their right to oppose any such motion for leave to amend the Second Amended
21 Complaint brought by Plaintiff.

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(8) The parties agree to remove the oral argument currently scheduled for June 4, 2007 from the Court's calendar until a date mutually agreed upon by the parties and the Court.

Dated: April 6, 2007

SHEARMAN & STERLING LLP

By: Raymond A. Just
Raymond A. Just

Attorneys for Defendants David H. McCormick,
Robert M. Calderoni and Ariba Inc.

Dated: April 16, 2007

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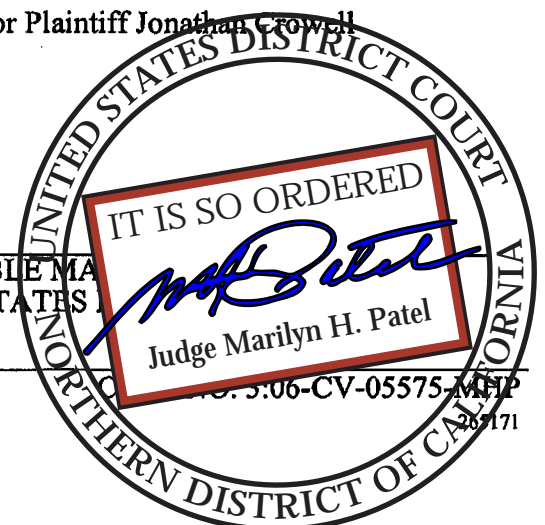
Attorneys for Plaintiff Jonathan Crowell

ORDER

IT IS SO ORDERED.

DATED: April 17, 2007

HONORABLE MA
UNITED STATES



JOINT STIP. AND [PROPOSED] ORDER